

**MEMORANDUM**

DATE: June 14, 2004

TO: Beach Redevelopment Advisory Board Members

VIA: Chuck Adams, Manager  
Redevelopment Services and Marine Facilities

FROM: Paul Costanzo, Principal Planner

RE: June 21, 2004 – NBRA & SLA Area Overlay, Historic & Conservation District Overview and Work Parameters

One of the Board's major work items for Fiscal 2004 is the development of a zoning tool that would assist the improvement, redevelopment and preservation of the NBRA and SLA zoned areas of the Central Beach. Staff has completed its initial research and this memorandum is meant to report our findings and promote additional discussion to guide future work.

Existing Conditions

The areas (**Exhibits 1 & 2**) consist of 138 properties that include 132 buildings. Of the 132 buildings, eight (8) buildings are three (3) to five (5) stories in height and an additional thirteen (13) buildings are six (6) or more stories in height. The existing land uses are a relatively even mix of small resorts/motels, rental apartments, condominiums, restaurants and small retail establishments. The only exceptions to this pattern are the Tiffany House, an assisted living facility, and Covenant House, a non-profit crisis intervention agency.

Existing Zoning

The ULDRs state that the intent of the NBRA and SLA Districts is to, "encourage the preservation, maintenance and revitalization of existing structures and uses that make up the distinct neighborhood that occurs in the center of the north beach and south of Sunrise neighborhoods". The NBRA district permits hotels/motels, restaurants located in a high-rise residential building or hotel (with no outdoor service), residential uses and accessory retail uses that are completely located in a building. There is no minimum lot size requirement. The maximum permitted density is thirty-two (32) units per acre for residential uses and fifty (50) rooms per acre for hotels. An increase in density is allowed if the increased units are transferred from a property zoned IOA, the property is located within 300 feet of the subject NBRA property, and the two properties are developed simultaneously. The maximum building height is 120 feet. The minimum yard requirements are 20 foot front yard, and one-half the height of the building for side and rear yards. However, the side and rear yards may be reduced via site plan approval. The district also imposes a maximum building length and width of 200 feet per building, in addition to a building separation requirement of the greater of 20 feet or 20% of the tallest building.

The SLA district permits hotels/suite hotels, restaurants, residential uses, parking garages and lots, moped/scooter rentals, automobile rental as an accessory use to a hotel or marina and retail uses of a tourist related nature. There is no minimum lot size requirement. The maximum permitted density is forty-eight (48) units per acre for residential uses, ninety (90) rooms per acre for hotels and a floor area ratio of two (2) for retail uses. The maximum building height is 120 feet. The minimum yard requirements are 20 foot front yard (which is reducible to 10 feet with additional landscaping), 10 foot side yards (reducible to zero in certain instances) and 20 foot rear yards (reducible to zero in certain instances). The district also imposes a maximum building length and width of 200 feet per building, in addition to a building separation requirement of the greater of 20 feet or 20% of the tallest building.

The ULDR parking requirements are use specific. Generally, for the various types of uses permitted in the NBRA and SLA districts: multifamily requires an amount that increases from 1.75 spaces per unit for an efficiency to 2.2 spaces per unit for a three bedrooms or larger unit, hotels/motels/resorts require 1 space per unit, retail uses require 1 space per 250 gross floor area, restaurants require 1 space per 100 gross floor area for restaurants up to 4,000 sq.ft. in size and 1 space per 30 sq.ft. of customer service area plus 1 space per 250 sq.ft. of gross floor area for restaurants larger than 4,000 sq.ft., and commercial retail uses require 1 space per 250 sq.ft. of gross floor area. An applicant may reduce their parking requirement by payment of a Central Beach Parking Facility Fee. In this manner, 100% of the first 50 spaces and 50% of any spaces over 50 can be eliminated. However, there is no ability to either reduce or eliminate the parking requirement for cause (public parking within 700 feet of the subject site) in the Central Beach area.

### What is an Overlay District?

An “overlay district” is a special zoning district that is adopted by the City Commission to identify a special resource or development area. It is implemented by adopting new zoning provisions that apply in that area. These regulations are in addition to the existing provisions of the zoning ordinance. Overlay districts can facilitate a wide array of development options and goals, including watershed protection, Traditional Neighborhood Development, transit-oriented development, cluster development and historic preservation, to name just a few.

The term “overlay district” refers to the superimposition of a new district’s boundary lines on the zoning map’s existing district designations. An overlay district, like a conventional zoning district, consists of districts with mapped boundaries and written text. The mapped boundaries of the overlay district do not necessarily have to coincide with other existing district boundaries, and may not necessarily follow parcel boundaries.

The general purpose of an overlay district is to either conserve natural resources or realize development objectives without unduly disturbing the expectations created by the existing zoning ordinance and conventional districts. The existing provisions may properly regulate the relevant district, in general, but more specific and targeted provisions may be needed to accomplish pressing land use objectives. Overlay zoning creates a framework for conservation or development of specific geographic areas. In a special resource overlay district, overlay provisions typically impose greater restrictions on the development of land, but only regarding those parcels whose development, as permitted under the conventional district, may threaten the viability of the natural resource, or parcels intended to realize specific municipal/neighborhood objectives. In a development area overlay district, the provisions may impose

additional restrictions as well, but also may provide zoning incentives and waivers to encourage certain types and styles of development.

### What is a Historic District?

An historic district is a zoning district, either conventional or overlay, that is designed to preserve a building's or area's historic character and fabric. Historic districts can apply to sites, buildings, structures or objects of local, state or national significance. To be eligible to become an historic district, a building(s) or site(s) must have demonstrated historical, cultural and architectural significance. Historic districts can either be "locally" designated districts or "National Register" historic districts.

National Register Districts preserve districts, sites, buildings and objectives of national significance in American history, architecture, archeology, engineering and culture. This designation is viewed as a privilege and doesn't necessarily carry local regulations (zoning) with the designation. This is a designation conferred by either the state or federal government, and does not require local concurrence. Design review of demolitions, rehabilitation, restoration, alteration of exterior or public interior and new construction is performed by the State Historic Preservation Office (SHPO) and National Park Service (NPS) and is only required when federal or state financial incentives or funds are used. In such instance, the U.S. Secretary of the Interior's Standards for Rehabilitation must be followed.

Local historic districts preserve neighborhood character and promote appropriate development, protect areas that have significant architectural historic merit and distinct character, protect structures that contribute to the architectural and cultural heritage of the municipality, and ensure new construction, additions and alterations are appropriate with the scale, character, and architecture of the "built" environment. This is a locally conferred designation and carries local regulations (zoning & building) with the designation. Neither state nor federal concurrence is required. A locally constituted and empowered Historic Preservation Board performs design reviews of demolitions, rehabilitation, restoration, alteration of exterior or public interior and new construction. Staff may perform design reviews of minor projects. In addition to any locally adopted guidelines, the U.S. Secretary of the Interior's Standards for Rehabilitation are also followed.

### What is a Conservation District?

A conservation district is a generic term for a zoning district, either conventional or overlay district, that is used in some communities to identify and protect an area's distinctive atmosphere or character. The objective is usually to maintain and conserve a neighborhood's character by outlining procedures and policies for alterations and demolitions of existing structures and design of new construction in the district, and processes for their approval. Each conservation district regulation is tailored to the individual neighborhood and what the district is collectively designed to conserve. Depending on intent, the regulations may address items such as the preservation of scale, volumetric relationships, uses, signage, additions and alterations, historic character and style.

One of the most important components of conservation districts is a set of design standards and review process. Design standards usually include characteristics such as building height, size, massing, principal elevation features, lot size/coverage, parking, setbacks, and roofline & pitch. In addition, they may also include items such as signage, building materials, landscaping and natural features, fences and walls, building orientation, driveway and sidewalk location. Since conservation districts are tailored to specific

neighborhoods, the property owners usually determine what “character-defining” elements are important to them to be included in their district’s design standards. Design review is ordinarily done administratively since the standards are neighborhood defined. However, a city-appointed review board may also control the design review process.

How is a Neighborhood Conservation District different from a Historic District?

There are a number of differences between conservation districts and historic districts (**Exhibit 3**). Generally, historic districts have more complex and restrictive requirements than do neighborhood conservation districts. Neighborhood conservation districts can apply to a broader range of neighborhood types that are currently experiencing a large amount of infill development. Design guidelines are tailored to specific neighborhoods verses the generic state and federal guidelines used in historic districts. Historic districts focus just on the historic nature of the building, site or area, while neighborhood conservation districts can address zoning related issues that can be unique to a specific neighborhood. In either instance, as enumerated in the discussion of Building Code issues below, historically designated buildings are eligible for certain exemptions from Code provisions.

Historic Survey of Area Buildings

Historic surveys are fundamental to historic preservation because they result in the identification of historic resources and help determine which resources should be preserved. The purpose of completing a local survey is to gather the information needed to plan for the wise use of a community's resources. A survey provides the means by which historic resources are identified and documented so their significance can be evaluated. The term describes both a process and a product. A historic resources survey requires the recordation of basic data on, and the photographic documentation and mapping of, individual resources in a specified area. It also requires that research be conducted to determine the historic significance of the resources surveyed. Historic resources are typically fifty years of age or older, but resources of lesser age may qualify if they have extraordinary significance.

Historic resources surveys fall into two general types: reconnaissance-level surveys and Phase 1 Level surveys. A reconnaissance-level survey is a first step in the survey process that identifies those areas and properties worthy of further study. Because reconnaissance-level surveys do not typically include research on the histories of the surveyed resources, they do not provide sufficient information for making informed evaluations of historic significance. Phase 1 Level surveys include historical research on the surveyed properties that provides the information needed for determining which individual properties and areas are eligible for historic designations. Survey work products include electronic database records, photographs, State survey forms, maps, and a survey report. For each surveyed resource locational, descriptive, historical background, and other categories of information, as well as evaluation results and other recommendations, are recorded.

Over the years there have been surveys completed for several areas of the City. However, neither the NBRA area nor SLA area have had any survey work completed to date.

Staff Identified ULDR Impediments To Property Improvement and Redevelopment

Generally, we have found that the ULDR impediments in the area are created by the dichotomy of the zoning regulations not recognizing the nature of the existing built environment. This dichotomy is likely

the result of past policies more focused on “new development” than on retention, infill and redevelopment. Regulations governing issues such as the yard requirements, parking standards, landscaping requirements and sign standards provide this indication. This dichotomy is exacerbated by the requirement of mandatory “total compliance” with the ULDR regulations when renovations and/or additions are made to “nonconforming” buildings/structures/uses that exceed 50% of the replacement value of the existing building or more than 50% of the gross floor area.

In addition, there appear to be uses that could be permitted that would allow the market forces in the area to help create a more interactive urban environment. Uses such as coffee houses, outdoor dining, flower & sundry shop, delicatessens, etc. could be permitted and would provide more vitality to the area.

### What Building Code Provisions Govern the Area

In addition to zoning impediments, there has been much discussion of Building Code issues. John Smith, the former City Building Official, has provided a memo (**Exhibit 4**) clarifying which Florida Building Code provisions govern renovation, handicapped accessibility, historic structures and change of occupancy.

To summarize Mr. Smith’s memo, a building must be brought into compliance with current Building Code standards if the occupancy classification or sub-classification changes, when a building addition constitutes 25% or more of the area of the existing building, when structural repairs/alterations are made that exceeds 25% of the replacement value of the existing building or when non-structural repairs/alterations are made that exceeds 50% of the replacement cost of the existing building. However, the Building Official has discretion in determining if the “intent” of the Code has been met in compliance when a change of occupancy classification or sub-classification has occurred and in establishing a building’s replacement value.

Alterations, repairs or the restoration of historically designated buildings do not need to comply with the existing Building Codes if the Building Official feels the building is “safe” for occupancy and use. However, new buildings constructed in an historic district, or additions to or the reconstruction of existing historically designated buildings must comply with existing building codes in accordance with the provisions outlined in the preceding paragraph.

Zoning districts, such as overlay and conservation districts, cannot address (lessen the requirements) Building Code issues, they can only address ULDR requirements. Other than the existing built-in discretionary language, absent a statewide revision to the Florida Building Code, there are no additional ways to reduce the level of compliance.

### Public Input and Concerns

To ensure that staff hadn’t missed or misunderstood any relevant issues and impediments, a meeting was held to gain citizen input. A representative cross-section of eighteen (18) property owners from the NBRA and SLA districts was invited to meet and discuss their concerns and ideas.

In addition to the items staff had identified (enumerated above), the property owners identified the following:

- Slow, laborious plan approval process;

### ITEM III

- Inability to obtain definitive answers concerning plan approval and ULDR questions in a timely manner;
- Staff needs to have more “gray” mindsets verses “black & white”;
- Prohibition of parking at City metered spaces after 9 o’clock at night eliminating valuable, usable public parking inventory;
- Parking enforcement needs to be more sensitive and customer/tourist friendly;
- Some type of small “jitney” type service that could transport people from one part of the beach to another is needed.
- Additional signage along I-95 leading the traveling public to the Sunrise Boulevard exist and to the Beach is needed; all the present signs bring people in along Commercial Boulevard and as a consequence most stay north of Oakland Park Boulevard.

#### Staff Recommendations

Staff recommends that we initiate drafting an overlay district(s) that would address the zoning and process impediments identified above. The issues we would address in the overlay district(s) would include, relaxing yard, signage, landscaping and parking requirements, reexamining the nonconforming building/use requirements, increasing the allowable uses in the districts and reexamining the present approval processes and attempt to expedite and make the processes more user friendly.

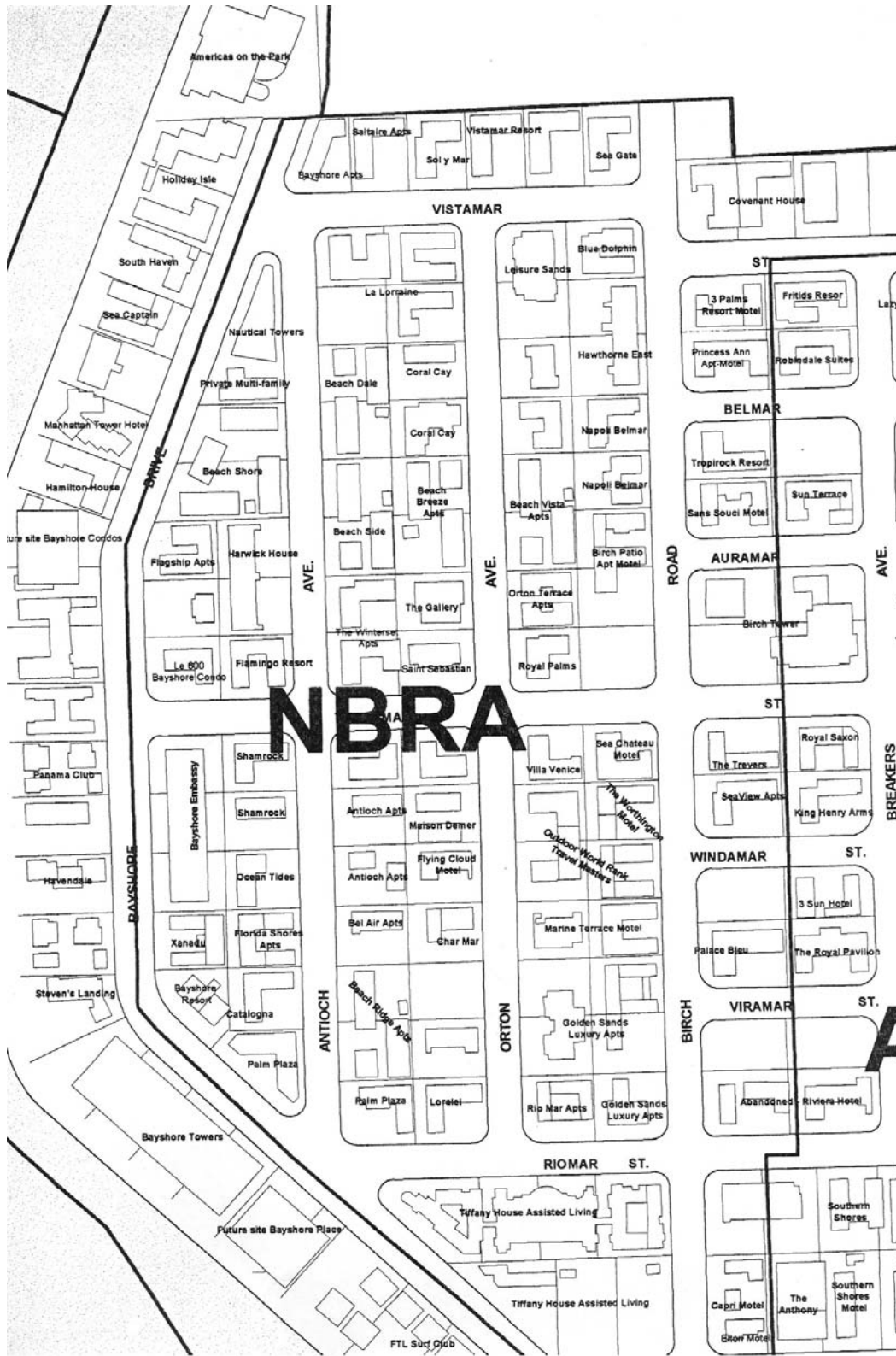
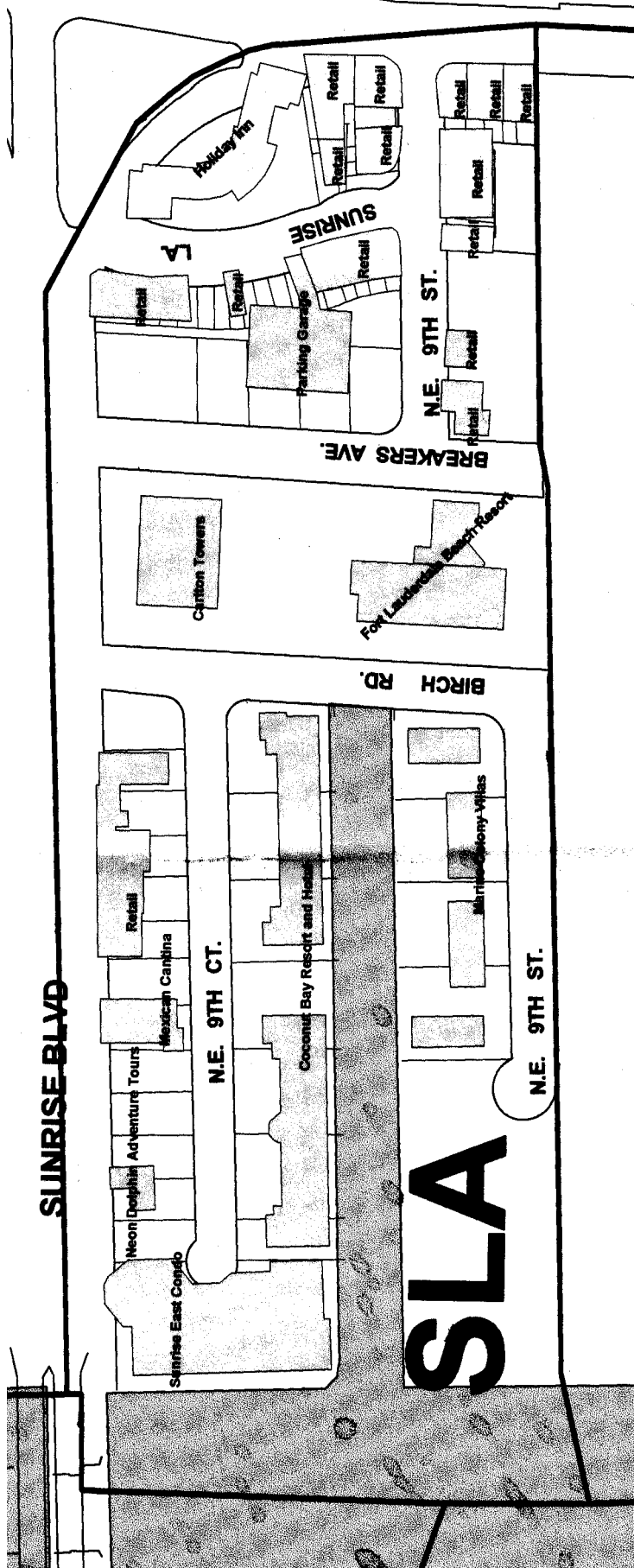


Exhibit 1





## Historic, Conservation & Overlay Districts Comparison of Regulations, Benefits & Incentives

	<b>National Register Historic District</b>	<b>Local Historic District</b>	<b>Conservation District</b>	<b>Overlay District</b>
<b>Purpose</b>	To preserve districts, sites, buildings, structures and objects of national significance in American history, architecture, archeology, engineering and culture. This designation is a privilege and carries no regulations unless financial incentives are requested or federal funds are used.	To preserve a building's or area's significant historic character and fabric through architectural criteria and special zoning provisions; to protect structures that contribute to the architectural and cultural heritage of a municipality; to ensure that new construction, additions or alterations are appropriate with the scale, character and architecture of the built environment.	To preserve the distinctive atmosphere, character and/or features of a neighborhood. Depending on the intent, regulations may address the preservation of scale, volumetric relationships, additions that clearly characterize building type, historic architecture or other aspects.	To preserve natural resources or further specific development objectives (preserving neighborhood character) without compromising the integrity of the zoning ordinance and its conventional districts. Allows a higher level of protection or quality within a specific defined area. Also allows flexibility in the application of standards that are spatially limited. Area specific and superimposed over existing zones.
<b>Benefits</b>	Property value enhancement, neighborhood revitalization, pride of ownership, preservation of unique character; follows Secretary of Interior's Standards for compatible new and infill construction; opportunities for	Property value enhancement, neighborhood revitalization, pride of ownership, preservation of unique character, design review, avoidance of demolition of significant historic architecture, guidance for compatible new	Property value enhancement, neighborhood revitalization, pride of ownership, design review, avoidance of demolition of significant historic architecture, neighborhood based design guidelines, preservation of unique character,	Property value enhancement, neighborhood revitalization, pride of ownership, design review, neighborhood based design guidelines, preservation of unique character, guidance for compatible new and infill construction, opportunity for local

	federal and state incentives	and infill construction, opportunity for federal, state and local incentives.	guidance for compatible new and infill construction, opportunity for local incentives.	incentives.
<b>Design Review Authority</b>	State Historic Preservation Office (SHPO) and National Park Service when financial incentives are requested or federal or state funds are used.	Local historic preservation board; possibly staff for minor projects.	Staff or local design review board.	Staff
<b>Regulated Activity</b>	None, except when financial incentives are requested or federal or state funds are used.	Demolition, rehabilitation, restoration, alteration of exterior and interior public areas and new construction.	Alteration of exterior and new construction; possibly demolition depending on intent of district. Tailored to the needs of the particular neighborhood.	Alteration of exterior and new construction. Tailored to the needs of the particular neighborhood.
<b>Demolition of Historically Significant Buildings &amp; Features</b>	Protected only when financial incentives requested or federal or state funds used.	May be prohibited if appropriate.	Total or partial demolition may be prohibited depending on intent of district.	Can't be prohibited.
<b>Design Guidelines</b>	U.S. Secretary of the Interior's Standards for rehabilitation mandatory when financial incentives requested or federal or state funds area used	Local guidelines may be adopted and U.S. Secretary of the Interior's Standards for rehabilitation as applicable.	Local guidelines are adopted. Tailored to the needs of the particular neighborhood.	Local guidelines may be adopted depending on intent of the district. Tailored to the needs of the particular neighborhood.

<b>Stringency of Design Guidelines</b>	Mandatory and most stringent.	Less stringent but thorough.	More lenient depending on intent of district.	Most flexible.
<b>20% Federal Income Tax Credit</b>	Yes, if criteria is met.	No, unless federally registered and certified.	No	No
<b>10% Federal Income Tax Credit</b>	Yes, if criteria is met.	Yes, if criteria is met.	Yes, if criteria is met.	Yes, if criteria is met.
<b>Federal Income Tax Charitable Deduction for Façade Easement Donation</b>	Yes, if criteria is met.	No, unless federally registered and certified.	No	No
<b>Zoning Incentives</b>	Not applicable	Possible, depending on the specific district.	Yes, depending on intent.	Yes, depending on intent.
<b>Florida Building Code Interpretations</b>	Consideration of alternative materials and methods by the Building Official in accordance with the Secretary of Interior's Guidelines to achieve equivalency with requirements.	Consideration of alternative materials and methods by the Building Official in accordance with the Secretary of Interior's Guidelines to achieve equivalency with requirements.	No	No
<b>Life Safety Code Interpretations</b>	Same as above.	Same as above.	No.	No

# MEMO

DATE: June 3, 2004

TO: Paul Costanzo, Principal Planner  
Community & Economic Development

FROM: John R. Smith, Certified Building Official

RE: Building Codes and Existing Buildings

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The “Florida Building Code” (“FBC”) must be complied with when adding to, renovating, or repairing an existing building.

Chapter 11 of the FBC is the State of Florida’s version of the American’s with Disabilities Act (“ADA”). The Department of Justice has certified that Florida Law complies with Federal ADA requirements.

Additions to an existing building must meet the ADA’s requirements for new construction (FBC§11-4.1.5). If the addition affects the usability of the existing building then the area must comply with the alteration section (FBC§11-4.1.6).

Generally, alterations may not decrease the accessibility of a building.

There are two provisions of the Florida Accessibility Code (“FAC”) for building construction that may provide relief from total reconstruction of an existing building. These provisions are (i) technically infeasible, and (ii) disproportionate costs.

*Technically infeasible* refers to an alteration of a building or a facility that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility

*Disproportionate costs* would occur when the cost to alter the primary function areas for accessibility exceeds twenty percent (20%) of the cost of the overall construction.

The use of either and/or both of these provisions must be documented and accepted by the City’s Building Official.

Fort Lauderdale is in the high velocity hurricane zone and must therefore comply with FBC Chapter 34 “Existing Buildings”, specifically:

**Section 3401.2.2.1 – Change of Occupancy/Use.**

If the use or occupancy classification or occupancy sub classifications of any existing building or structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the technical codes as required by the Building Official. The Building Official has some discretion in applying the letter of the code to specific cases that may arise.

**Section 3401.5 – Special Historic Buildings.**

**Section 3401.5.1**

The provisions of the technical codes relating to the alteration, repair, restoration or moving of buildings or structures shall not be mandatory for existing buildings or structures identified as qualified historic buildings or structures when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare, regarding any proposed alteration, repair, restoration, relocation or moving of buildings within fire districts.

**Section 3401.5.2**

Qualified historic buildings or structures shall be:

1. Individually listed on the National Register of Historic Places; or
2. A contributing property in a National Register listed historic district; or
3. Designated as a historic property or a landmark under the provisions of a local historic preservation ordinance; or
4. A contributing property in a historic district designated under the provisions of a local historic preservation ordinance; or
5. Determined eligible by the Florida State Historic Preservation Officer, either individually or as a contributing building or structure in a district, for listing in the National Register of Historic Places.

**Section 3401.5.3**

When reviewing the proposed alteration, repair, restoration or moving of qualified historic buildings or structures the Building Official shall, pursuant to 103.7, consider alternative materials and methods which may be proposed for achieving equivalency with the requirements in the technical codes. Alternate methods for achieving equivalency with the requirements in the technical codes shall be guided by the recommended approaches to rehabilitation set forth in The Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

**Section 3401.8 – High Velocity Hurricane Zone Application to Existing Buildings.**

This section, in general, requires additions, alterations, repairs or changes of occupancy to comply with all the requirements for new buildings.

**Section 3401.8.2 – Additions.**

Where the existing building and an addition are not separated by a firewall, and the area of the addition is twenty-five percent (25%) or more of the area of the existing building, the existing building and the addition shall be made to comply with all the requirements of the code for building of area equal to the combined area of the addition and the existing building.

### **Section 3401.8.3 – Repairs and Alterations.**

#### **Section 3401.8.3.1**

Repairs and alterations not increasing the area of the building made within any twelve month period, shall meet the requirements of this section.

#### **Section 3401.8.3.2**

Structural repairs and alterations, the cost of which does not exceed twenty-five percent (25%) of the replacement value of the existing building or structure, shall comply with the requirements for new buildings or structures except that minor structural repairs and alterations may, with the approval of the Building Official, be constructed of the same materials and with the same degree of fire-resistivity as the original building or structure.

(a) Window replacement is considered a major structural repair which shall meet the code requirements for new buildings. This means that existing windows shall be replaced with impact resistant windows, or must be replaced with windows that are designed to resist the static pressure for an enclosed building and shall be protected with an impact resistant covering meeting the Miami-Dade TAS 201, 202 and 203. In addition, the new windows must be anchored as per Chapter 17 of this code.

(b) With regard to shutters as it relates to egress, existing windows which are used as emergency escape or rescue openings and at the same time protected with hurricane shutters shall be required to meet the code in effect at the time the building was permitted.

#### **Section 3401.8.3.3**

Non-structural repairs and alterations, the cost of which does not exceed twenty-five percent (25%) of the replacement value of the existing building or structure, and which do not effect egress or fire-resistivity, may comply with the requirements of the building code in effect at the time of original construction, except that repairs and alterations to plumbing, mechanical and electrical systems shall comply with the code in effect at the time the permit for such work is issued.

#### **Section 3401.8.3.4**

Repairs and alterations amounting to twenty-five percent (25%) but not exceeding fifty percent (50%) of the replacement value of the existing building may be performed without making the entire existing building comply with all of the requirements for a new building, provided such repairs and alterations comply with the requirements of the code for building of like area, height and occupancy.

#### **Section 3401.8.3.5**

Where the repairs and alterations amounting to more than fifty percent (50%) of the replacement value of the existing building are made during any twelve month period, the

building or structure shall be made to conform to all the requirements for a new building or structure or be entirely demolished.

**Section 3401.8.5 Value Determination.**

The value of a building or structure shall be the estimated cost of constructing a new building of like size, design, and materials at the site of the original structure, assuming such site to be clear. Cost of additions, alterations, and repairs shall be construed as the total cost of labor, materials, and services based on current prices for new materials. The Building Official may use the most appropriate means to determine the replacement cost.

**Section 304.2.2 Accessory Uses.**

Occupancy of any room or space for assembly purposes by fewer than fifty persons in a building or other occupancy and incidental to such other occupancy shall be classified as part of the other occupancy and shall be subject to the provisions applicable thereto.

Lessening requirements:

I am not aware of any other lessening requirements as outlined in the FBC.